

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHANE NOEL ROSCOE,

Case No. 2:16-cv-11133

Petitioner,

HONORABLE STEPHEN J. MURPHY, III

v.

CONNIE HORTON,

Respondent.

/

**ORDER GRANTING PETITIONER'S
MOTION TO LIFT STAY AND REOPEN CASE [8],
GRANTING PETITIONER'S MOTION TO AMEND HABEAS
PETITION [9], DIRECTING SERVICE, AND REQUIRING RESPONSIVE PLEADING**

In March 2016, Michigan state prisoner Shane Noel Roscoe filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254. ECF 1. On the same day, Roscoe filed a motion to stay the proceedings and hold the petition in abeyance. ECF 3. On May 17, 2016, the Court granted Petitioner's motion, administratively closed the case, and imposed certain conditions under which Roscoe was required to proceed. ECF 6. In particular, the Court required Roscoe to file, within 60 days of the conclusion of his state court post-conviction proceedings, "(1) a motion to lift the stay, and (2) an amended petition that includes the new claims." *Id.* at PgID 171.

Roscoe pursued his additional claims in state court. On July 18, 2016, the Washtenaw County Court denied Roscoe's motion for reconsideration. ECF 10-3, PgID 511. On December 28, 2016 the Michigan Court of Appeals denied Roscoe's application for leave to appeal. See *Case Search*, Michigan Courts (last accessed Feb. 21, 2018), http://courts.mi.gov/opinions_orders/case_search/pages/default.aspx?SearchType=1&C

aseNumber=334281&CourtType_CaseNumber=2. Subsequently, Roscoe filed an application for leave to appeal in the Michigan Supreme Court; that court denied the application on November 29, 2017. *People v. Roscoe*, 501 Mich. 925 (2017).

On February 1, 2018, the Clerk of the Court entered on the docket Roscoe's motion to lift the stay, ECF 8, and motion to amend his petition, ECF 9. Under the common-law mailbox rule, a court deems a habeas petition filed "when the prisoner gives the petition to prison officials for filing in the federal courts." *Cook v. Stegall*, 295 F.3d 517, 521 (6th Cir. 2002) (citing *Houston v. Lack*, 487 U.S. 266, 273 (1988)). Roscoe timely mailed his motions and amended petition on January 25, 2018. See ECF 7, PgID 173–74.

WHEREFORE, it is hereby **ORDERED** that Petitioner's motion to lift stay [8] is **GRANTED**.

IT IS FURTHER ORDERED that Petitioner's motion to amend habeas petition [9] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to **REOPEN** the case and serve copies of the amended petition for writ of habeas corpus [10] and the instant Order on Respondent and on the Attorney General for the State of Michigan as provided in Rule 4, Rules Governing Section 2254 Cases.

IT IS FURTHER ORDERED that Respondent **FILE** an answer responding to the allegations of the amended petition in accordance with Rule 5, Rules Governing Section 2254 Cases, by **June 27, 2018**.

IT IS FURTHER ORDERED that the Clerk of the Court shall change the caption of the case and the docket sheet to reflect the caption contained in the order and the change of the Respondent's name.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: February 27, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 27, 2018, by electronic and/or ordinary mail.

s/ David Parker
Case Manager